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15 APPLE INC.

21 ASHLEY GJOVIK,
22 Plaintiff,
23 v.
24 APPLE INC.,
25 Defendant

Case No. 23-cv-4597-EMC

DEFENDANT APPLE INC.'S REPLY IN SUPPORT OF ITS MOTION TO STAY IN LIGHT OF BANKRUPTCY PROCEEDINGS

Date: October 23, 2025
Time: 1:30 p.m.
Dept: Courtroom 5, 17th Floor
Judge: Honorable Edward M. Chen

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1 **I. INTRODUCTION**

2 Apple's Motion to Stay Proceedings rests on a straightforward principle: the Trustee of the
 3 Chapter 7 Estate is presumptively the real party in interest with the exclusive authority to prosecute
 4 this case, and a stay is appropriate to allow the Trustee time to decide how to proceed.
 5 Plaintiff/Debtor cites no authority that contradicts this principle but, instead, misleadingly edits
 6 Federal Rule of Bankruptcy Procedure 6009 (among other misstatements of bankruptcy law) to
 7 suggest a debtor in Chapter 7 bankruptcy may prosecute a prepetition legal claim. Not so. Rule
 8 6009 is limited to trustees and debtors in possession, the latter of which does not apply in Chapter
 9 7 bankruptcy proceedings. A stay of this action is appropriate to allow the Trustee time to decide
 10 how to proceed.

11 Plaintiff/Debtor's opposition and concurrent filings in the bankruptcy court confirm that she
 12 intends to challenge the Trustee's right to prosecute this action through rulings in the bankruptcy
 13 proceedings. While the Parties agree that any such challenge must be decided in the bankruptcy
 14 court, that does not mean Plaintiff/Debtor has a right to prosecute this action until that issue is
 15 decided and she provides no authority allowing her to prosecute this action until then. A temporary
 16 stay of this matter while that issue is resolved is the only just result.

17 None of Plaintiff/Debtor's further arguments warrants any other result. Apple did not sleep
 18 on its rights; instead, it filed its motion just four days after the Section 341 Meeting of the Creditors
 19 which clarified the Trustee was not abandoning the litigation, as Plaintiff/Debtor told this Court she
 20 thought he would. And none of Plaintiff/Debtor's remaining arguments, unfounded and
 21 inflammatory accusations, or improper requests for leave to amend her complaint or refile motions
 22 previously decided against her, is relevant or properly raised. The Court should stay this action to
 23 allow time for the Trustee to decide how to proceed and, if necessary, to allow the bankruptcy court
 24 to determine Plaintiff/Debtor's challenge to the Trustee's authority to prosecute this action.

25 **II. THE TRUSTEE HAS THE EXCLUSIVE AUTHORITY TO PROSECUTE THIS**
 26 **CASE, AND A STAY IS APPROPRIATE BOTH TO ALLOW HIM TIME TO**
 27 **DECIDE HOW TO PROCEED AND, IF NECESSARY, TO ALLOW THE**
 28 **BANKRUPTCY COURT TO DECIDE ANY CHALLENGE TO HIS AUTHORITY.**

Plaintiff/Debtor completely ignores the extensive law cited in Apple's Motion—including

1 from the District of Massachusetts, the First Circuit, and the Ninth Circuit—that confirms the
 2 Trustee is the real party in interest with the exclusive authority to prosecute this action. *See* Mot.
 3 3:19-7:5. Plaintiff/Debtor provides no valid legal authority supporting her belief that the Trustee is
 4 not the real party in interest and cannot prosecute the claims here. *See, e.g.*, Opp'n ¶¶ 13-14, 20,
 5 35, 43-44.¹ Regardless of whether Plaintiff/Debtor ultimately prevails in the bankruptcy court in
 6 her challenge of the Trustee's statutory authority to prosecute claims of the Chapter 7 Estate, a stay
 7 is appropriate. Until the bankruptcy court rules otherwise, the Trustee is presumptively the real
 8 party in interest in this action, and he agrees a stay is appropriate while he decides how to proceed.

9 Apple and Plaintiff/Debtor are in agreement on one thing: any challenge to the Trustee's
 10 exclusive authority to prosecute this action must be decided in the bankruptcy court. *Compare* Mot.
 11 9:6-7 ("Should Plaintiff/Debtor challenge the Trustee's statutory authority, the stay should remain
 12 in effect until such time as the bankruptcy court has made a final determination of that issue.") *with*
 13 Opp'n ¶ 15 ("The question of whether Trustee DeGiacomo has authority to agree to litigation stays
 14 is squarely within the bankruptcy court's exclusive jurisdiction.").² Where the parties differ is what
 15 the bankruptcy court's jurisdiction over this issue means for this case.

16 Plaintiff/Debtor suggests that she retains control of the litigation until the bankruptcy court
 17 says otherwise, and asks the Court to defer ruling on this Motion—*i.e.* to allow her to continue to
 18 litigate rather than to pause the case and preserve the status quo—until the bankruptcy court
 19 determines "these threshold jurisdictional issues" given its "exclusive jurisdiction over estate
 20 administration." Opp'n ¶ 16 (citing *Mar. Elec. Co. v. United Jersey Bank*, 959 F.2d 1194, 1204 (3d
 21
 22

23 ¹ Plaintiff/Debtor misplaces her reliance on *Katz v. Commissioner of Internal Revenue*, 335 F.3d
 24 1121, 1127 (10th Cir. 2003), for the proposition that the Trustee is not a party to this action
 25 because "in a bankruptcy, a debtor and the estate are distinct legal entities." Opp'n ¶ 14. *Katz*
 26 addressed the distinction between assets of the estate—which Plaintiff/Debtor concedes this
 27 litigation is—and assets of the debtor when interpreting which assets of a partnership are properly
 28 part of the bankruptcy estate, an issue that is not relevant here. *Katz*, 335 F.3d at 1127-28.

29 ² While Plaintiff/Debtor admits the bankruptcy court must decide this issue, she later suggests,
 30 without any legal authority, that this Court can simply issue a Case Management Order that limits
 31 the Trustee's role such that he can only participate in settlement discussions. *See* Opp'n ¶ 70. For
 32 the reasons set forth in Apple's Motion and this Reply, the Court cannot so limit the real party in
 33 interest's role in this litigation.

1 Cir. 1991)).³ While Apple agrees that any challenge to the Trustee's exclusive authority to
 2 prosecute this action is an issue *for the bankruptcy court to decide*, it disagrees that a deferred
 3 ruling that allows Plaintiff/Debtor to retain control of the litigation comports with the law. The
 4 controlling authority cited by Apple (which Plaintiff/Debtor does not mention in her opposition)
 5 confirms the opposite is true: the Trustee has the exclusive authority to prosecute this action at this
 6 juncture. *See, e.g., In re DiSalvo*, 219 F.3d 1035, 1039 (9th Cir. 2000) (cited at Mot. 4:4-6); *DiMaio*
 7 *Family Pizza & Luncheonette, Inc. v. The Charter Oak Fire Ins. Co.*, 448 F.3d 460, 463 (1st
 8 Cir. 2006) (cited at Mot. 4:6-9). A stay is appropriate while he decides how to proceed. *See In re*
 9 *PG&E Corp. Sec. Litig.*, 100 F.4th 1076, 1085 (9th Cir. 2024) (cited at Mot. 3:2-10).

10 Instead of addressing this black letter law head on, her opposition focuses on two end-run
 11 arguments rooted in her confusion about the Trustee's role and misrepresentations of law:

12 (a) She incorrectly asserts she remains the real party in interest in all prepetition claims she
 13 disclosed in her bankruptcy petition until the Trustee affirmatively decides to prosecute them or
 14 abandon them; and

15 (b) She incorrectly contends that she remains the real party in interest for any prepetition
 16 claims she disclosed as exempt (even while the window to object to the exemption remains open
 17 and prior to any finding by the Trustee or the bankruptcy court on that issue). *See Opp'n ¶¶ 31-44.*
 18 Both of these assertions run afoul of black letter law.

19 A. The Trustee Is the Presumptive Real Party in Interest for All Prepetition
 20 Claims, Whether Disclosed or Not, Unless and Until He Abandons Them,
Regardless of the Status of His Investigation of Such Claims.

21 Plaintiff/Debtor's assertion that there is a legal distinction between disclosed claims and
 22 undisclosed claims for the purposes of determining whether the Trustee is the real party in interest
 23 misstates bankruptcy law. Neither 11 U.S.C. § 323 nor Federal Rule of Bankruptcy Procedure 6009
 24 distinguish between disclosed and undisclosed claims when confirming the Trustee has the
 25 authority to prosecute claims that belong to the Chapter 7 Estate. Indeed, the cases cited by Apple
 26 include both disclosed and undisclosed claims and uniformly hold that the Trustee has the exclusive

27 ³ *Mar. Elec. Co.* involved the bankruptcy court's role in determining the scope of an automatic stay
 28 under 11 U.S.C. § 362, which is not at issue here.

1 authority to prosecute prepetition claims. *See, e.g., In re Bronner*, 135 B.R. 645 (B.A.P. 9th Cir.
 2 1992) (disclosed) (cited at Mot. 4:11-14); *In re Harris*, 450 B.R. 324 (Bankr. D. Mass. 2011)
 3 (disclosed) (cited at Mot. 4:21-5:2); *Lennear v. Diamond Pet Food Processors of Cal., LLC*, 147
 4 F. Supp. 3d 1037 (E.D. Cal. 2015) (undisclosed) (cited at Mot. 3:24-28); *Slater v. U.S. Steel Corp.*,
 5 871 F.3d 1174 (11th Cir. 2017) (undisclosed) (cited at Mot. 4:17-21).

6 Plaintiff/Debtor admits that this action became the property of the bankruptcy estate and
 7 that the Trustee must *either* investigate and administer the claims in this litigation *or* abandon them.
 8 Opp'n ¶ 32. Notwithstanding these admissions, Plaintiff/Debtor illogically concludes, *without any*
 9 *valid legal authority*, that she retains control over prepetition claims through the Trustee's
 10 investigation period. *Id.* ¶¶ 35-36. In Plaintiff/Debtor's view, the claims in this action remain hers
 11 until the Trustee *both* completes an investigation *and then* takes affirmative steps to administer
 12 these claims, by appointing counsel and obtaining court authority to pursue the litigation, simply
 13 because she disclosed this action in her bankruptcy filings. *Id.* ¶¶ 35-36, 43-44. She further
 14 speculates that “[i]f mere investigation eliminated debtor standing, disclosed claims would exist in
 15 legal limbo - with neither trustee nor debtor able to act.” *Id.* ¶ 43. Her position is not supported by
 16 any valid legal authority because it is not the law. Nowhere does Plaintiff/Debtor cite authority for
 17 the proposition that she controls the litigation until the Trustee takes action to control it.⁴

18 As the real party in interest, the Trustee has the exclusive right to prosecute any prepetition
 19 litigation that is an asset of the Chapter 7 Estate. *See* 11 U.S.C. § 323; *In re DiSalvo*, 219 F.3d 1035,
 20 1039 (9th Cir. 2000); *cf. DiMaio Family Pizza & Luncheonette, Inc. v. The Charter Oak Fire Ins.*
 21 *Co.*, 448 F.3d 460, 463 (1st Cir. 2006); Plaintiff/Debtor's own authority confirms this point. *See*
 22 *Barletta v. Tedeschi*, 121 B.R. 669, 671-72 (N.D.N.Y. 1990) (cited in Opp'n ¶ 36) (“Once a cause
 23 of action becomes the property of the estate, the debtor may not bring suit on that action unless the

24 ⁴ Plaintiff/Debtor's contention that “Fed. R. Bankr. P. 6009 expressly allows the Plaintiff/Debtor
 25 to prosecute this action” is a blatant misstatement of the Rule accomplished through misleading
 26 editing of the quotation. Opp'n ¶ 3. Rule 6009 is expressly limited to the authority of trustees and
 27 “debtor[s] in possession,” the latter of which is not applicable in Chapter 7 bankruptcies. *See, e.g.*,
 28 Fed. R. Bankr. P. 6009; 11 U.S.C. § 1101 (defining “debtor in possession” for the purposes of
 Chapter 11). The cases Plaintiff/Debtor cites also do not support her argument. *See, e.g., In re*
Jackson, 105 B.R. 542 (B.A.P. 9th Cir. 1989) (cited in Opp'n ¶ 3) (affirming Rule 6009 authorizes
 a trustee, not the debtor, to prosecute claims on behalf of a Chapter 7 estate).

1 property has been abandoned by the trustee.”) (internal quotations omitted). A stay is appropriate
 2 until the Trustee decides what he wants to do with this litigation.

3 Plaintiff/Debtor further concedes that that the Trustee has not initiated any of the formal
 4 requirements to abandon this action which she admits is an asset of the Chapter 7 Estate—self-
 5 defeating concessions that further bolster Apple’s position. *See Opp’n ¶¶ 32, 37.* Since the Trustee
 6 has not abandoned the claims in this action, Plaintiff/Debtor lacks standing to prosecute them. *See*
 7 *In re Bronner*, 135 B.R. at 647; *In re Harris*, 450 B.R. at 335, n. 46; *Barletta*, 121 B.R. at 671-72.

8 Plaintiff/Debtor also confusingly asserts that the Trustee is not the real party in interest
 9 because he has not sought “court approval to control the litigation under Fed. R. Bankr. P. 6004.”
 10 *Opp’n ¶¶ 37, 44.* It is unclear why Plaintiff/Debtor believes Rule 6004 (which is titled the “Use,
 11 Sale, or Lease of Property”) requires the Trustee to seek court approval to prosecute this litigation
 12 as the real party in interest, given that Rule 6009 confirms that the Trustee may “***without court
 13 approval*** ... prosecute in any tribunal an action or proceeding on the estate’s behalf.” Fed. R. Bankr.
 14 P. 6009 (emphasis added). Thus, the Trustee is not required to seek court approval to prosecute this
 15 action.

16 Lastly Plaintiff/Debtor asserts that the Trustee’s ownership of the claims in this case is
 17 limited to “the fiscal outcome of litigation with non-exempt pecuniary damages (settlements,
 18 judgements, etc.).” *Opp’n ¶ 21.* Plaintiff/Debtor cites no authority for this claim because there is
 19 none. It is the Trustee (not Plaintiff/Debtor) who assumes responsibility for administering all
 20 Chapter 7 Estate assets (including all prepetition legal claims and equitable claims) for the benefit
 21 of the creditors. *See DiMaio*, 448 F.3d at 463; *In re DiSalvo*, 219 F.3d at 1039; *Barletta*, 121 B.R.
 22 at 671-72.

23 B. **Plaintiff/Debtor’s Claimed Exemption Does Not Confer Standing on Her to
 24 Prosecute This Lawsuit, and Whether This Litigation Is Exempt Must Be
 Resolved in the Bankruptcy Court.**

25 Plaintiff/Debtor admits that it is the Trustee’s duty to evaluate whether the Chapter 7 Estate
 26 can meaningfully recover assets, including those claimed to be exempt, and argues “[i]f the debtor
 27 properly claimed and can cover the entire potential recovery with valid exemptions, there may be
 28 no economic incentive for the trustee to get involved.” *Opp’n ¶ 38.* While Apple does not dispute

1 this general premise, Plaintiff/Debtor misapplies it.

2 First, contrary to Plaintiff/Debtor's assumptions, there is no indication that the Trustee has
 3 made any determination that there is "no economic incentive" to prosecute this action. Indeed, the
 4 Trustee told Plaintiff/Debtor at the Section 341 Meeting of Creditors that he wants to further discuss
 5 her prepetition claims and agrees that a stay is appropriate to allow him to decide how to proceed.
 6 *See* Booms Decl., ¶ 3; Perry Decl., ¶ 3, Ex. A.

7 Second, claiming an exemption to assets that may be recovered in this action does not give
 8 Plaintiff/Debtor the right to prosecute the litigation, because an exemption only affords
 9 Plaintiff/Debtor "an interest in any potential recovery from the lawsuit [up to statutory limits],
 10 not an absolute right to retain the lawsuit itself." *In re Bronner*, 135 B.R. at 647-48. This is true
 11 even if the Trustee does not object to the claimed exemption because by not objecting, the Trustee
 12 is simply acknowledging that Plaintiff/Debtor *may* have an interest in a portion of a recovery that
 13 cannot be used by the Chapter 7 Estate to settle her debts. *Id.* Thus, simply claiming a portion of a
 14 potential recovery in this action as exempt does not displace the Trustee's exclusive right to
 15 prosecute this action on behalf of the Chapter 7 Estate. Plaintiff/Debtor's opposition makes no
 16 mention of this case law, nor any effort to distinguish it.

17 Third and most importantly, however, any claimed exemptions are a matter for the
 18 bankruptcy court, not this Court, to adjudicate. *See supra*, at 2-3. To the extent Plaintiff/Debtor's
 19 challenge to the Trustee's exclusive authority to prosecute this action rests on the evaluation of the
 20 merits or extent of a claimed exemption, the parties *agree* that matter must be decided in the
 21 bankruptcy court. The Court should stay this action while that process plays out.

22 **III. APPLE FILED ITS MOTION TO STAY PROMPTLY.**

23 Plaintiff/Debtor suggests that Apple "slept upon [its] rights" to challenge her status as the
 24 real party in interest. Opp'n ¶ 9 (quoting *Chapman v. Bd. of Cnty. Comm'rs of Douglas Cnty.*, 107
 25 U.S. 348, 355 (1883)); *see also id.* ¶¶ 30, 59-62. The only legal authority she provides is a partial
 26 quote from dicta in an 1883 U.S. Supreme Court opinion that stated a writ of mandamus may be
 27 refused "when the relator has slept upon his rights for an unreasonable time, and especially if the
 28 delay has been prejudicial to the defendant, or to the rights of other persons," while confirming that

1 whether the evidence presented justifies such a refusal depends “on the character and circumstances
 2 of the particular case.” *Chapman*, 107 U.S. at 355. *Chapman* has nothing to do with the issues
 3 presented in Apple’s Motion, and, to the extent *Chapman* had any applicability, it would simply
 4 confirm that any delay must be unreasonable and prejudicial given the facts of this case before a
 5 party will be estopped from seeking relief from the Court.

6 There is no unreasonable delay because Apple promptly moved to stay this action when it
 7 became clear that the real party in interest (the Trustee) is still evaluating how to proceed. Indeed,
 8 barely a month passed between the Trustee’s appointment to manage Plaintiff/Debtor’s Chapter 7
 9 Estate and Apple’s Motion. And Apple moved promptly after the August 21, 2025 Section 341
 10 Meeting of Creditors where—contrary to Plaintiff/Debtor’s supposition—the Trustee did not
 11 indicate any decision to abandon this action. *See Mot. § II.* There is also no prejudice to the real
 12 party in interest because the Trustee *agrees* that a stay is appropriate in this circumstance. Perry
 13 Decl. ¶ 3, Ex. A; *accord Whelan v. Abell*, 953 F.2d 663, 672 (D.C. Cir. 1992) (holding that “the
 14 real party must have the opportunity to step into the ‘unreal’ party’s shoes and should not be
 15 prejudiced by undue delay”).

16 Courts have found waiver of the right to raise a real party in interest objection only in
 17 dramatically different circumstances where a party waited years to raise issues, proceeded through
 18 multiple amended pleadings or dispositive motions without raising the issue after it was ripe, or
 19 raised an objection on the eve of trial or for the first time on appeal, despite having long been on
 20 notice of the relevant facts. *See, e.g., United HealthCare Corp. v. Am. Trade Ins. Co.*, 88 F.3d 563,
 21 569 (8th Cir. 1996) (real party in interest defense waived where raised two years after being put on
 22 notice and just one week before trial); *United States ex rel. Reed v. Callahan*, 884 F.2d 1180, 1183
 23 n. 4 (9th Cir. 1989) (rejecting real party in interest defense raised for the first time on appeal); *AIG*
 24 *Ret. Servs., Inc. v. Altus Fin. S.A.*, No. CV 05-1035-JFW (CWX), 2011 WL 13213601, at *5 n.6
 25 (C.D. Cal. Aug. 26, 2011) (“extraordinary unexplained delay” in raising standing objection
 26 constituted waiver where issue was ripe and defendants “never objected or argued that [plaintiff]
 27 was not the real party in interest” through multiple pleadings, a motion for summary judgement, or
 28 on appeal). Apple did not waive its right to assert that the Trustee is the real party in interest.

1 **IV. PLAINTIFF/DEBTOR'S REMAINING ARGUMENTS ARE IRRELEVANT AND**
 2 **IMPROPER.**

3 The opposition also cycles through a litany of other arguments (peppered with inflammatory
 4 accusations) entirely divorced from the reasons Apple moved to stay or the issues this Court must
 5 evaluate in determining whether a stay is appropriate. By way of illustrating, Apple highlights and
 6 briefly responds to a few of her additional claims here (to the extent it understands them).

7 **A. The Law Governing 11 U.S.C. § 362 Automatic Stays Is Irrelevant.**

8 Plaintiff/Debtor's arguments regarding the automatic stay provision in 11 U.S.C. § 362 (*see*
 9 Opp'n ¶¶ 22-25) are irrelevant because Apple did not seek an automatic stay under this section,
 10 which Apple agrees applies only to actions "against the debtor." *Id.* at § 362(a)(1). That the
 11 Bankruptcy Code automatically stays actions against the debtor does not mean, however, that a stay
 12 of litigation initiated by the debtor is inappropriate when the Trustee agrees he needs additional
 13 time to determine the path forward. Apple has asked this Court to stay this action pursuant to its
 14 inherent authority because the real party in interest has not appeared in this action or had time to
 15 decide how to proceed.

16 **B. Plaintiff/Debtor's Speculation About the Trustee's Agreement to Stay Is**
 17 **Irrelevant.**

18 Plaintiff/Debtor speculates that the Trustee would have never agreed to the stay if Apple
 19 had provided him a copy of its Motion because, in her view, "the content of Apple's motion is
 20 extremely harmful to [her] position, and thus also harmful to the estate." Opp'n ¶ 28.⁵ But Apple's
 21 Motion simply argues that a stay is appropriate to allow the real party in interest time to decide how
 22 to proceed. That he may choose a different legal strategy than Plaintiff/Debtor is not harmful to the
 23 Chapter 7 Estate; it is his right and duty as a Trustee. And Plaintiff/Debtor's accusation that Apple
 24 made false statements about what it intended to file is similarly meritless. Opp'n ¶ 29. A plain
 25 reading of Apple's Motion confirms this statement is nothing more than a wild and unfounded
 26 accusation. *Compare* Perry Decl. ¶ 3, Ex. A (text of email outreach) *with* Mot. *passim*. Apple's
 27 notice to both Plaintiff/Debtor and the Trustee about its intent to move for a stay and its reasons for

28 ⁵ And in any event, the Trustee did receive a copy of the Motion and raised no opposition.

1 doing so was entirely reasonable and appropriate, not criminal as Plaintiff/Debtor alleges.

2 **C. This Is the Correct Forum for This Motion.**

3 Plaintiff/Debtor also accuses Apple of forum shopping without any factual or legal basis.
 4 *See Opp'n ¶¶ 7, 10, 12, 30, 48, 52.* Apple is not trying to move this action elsewhere. It has simply
 5 asked this Court to *stay* this action (in this Court, without moving it anywhere) until the real party
 6 in interest decides how to proceed. Apple's requested stay allows the Trustee time to do just that,
 7 if he chooses to pursue this action, and does not change the forum.

8 **D. 11 U.S.C. § 525 Does Not Apply Here.**

9 Plaintiff/Debtor contends Apple's Motion constitutes "unlawful discrimination under 11
 10 U.S.C. § 525(a)-(b)." *Opp'n ¶ 42.* By its own terms, subsection (a) of that code section applies to
 11 actions by a "a governmental unit," and subsection (b) applies to termination or employment
 12 discrimination against persons who filed for bankruptcy (which has no application here). Apple is
 13 not a "governmental unit" and terminated Plaintiff/Debtor years before she filed for bankruptcy.

14 **E. Apple's Motion Is Not About Any Misconduct by Plaintiff/Debtor.**

15 Plaintiff/Debtor repeatedly asserts that Apple's Motion relies on accusations that she
 16 engaged in "misconduct." *See Opp'n ¶¶ 6, 12, 31-32, 41, 46, 50-51, 67, 72, 79, 84, 90.*
 17 Plaintiff/Debtor appears to read Apple's presentation of facts as "misconduct," including the facts
 18 it set forth in its Motion that: (a) Plaintiff/Debtor disclosed this prepetition claim in her bankruptcy
 19 petition; (b) Plaintiff/Debtor expressed to this Court her opinion that the Trustee intended to
 20 abandon this action; and (c) Plaintiff/Debtor has taken numerous actions to prosecute this action
 21 since filing her bankruptcy petition, notwithstanding that the claims here are presumptively part of
 22 the Chapter 7 Estate. Apple's Motion does not even mention the word "misconduct." Apple recited
 23 these (true) facts as support for its argument that it is being forced to expend significant time and
 24 resources continuing to litigate against someone who is as of now no longer the real party in
 25 interest—nothing more, nothing less, regardless of how Plaintiff/Debtor characterizes it.

26 **F. Apple Has Not "Weaponiz[ed]" Bankruptcy Procedures.**

27 Plaintiff/Debtor next asserts that Apple is "weaponizing" bankruptcy procedures by
 28 attending her public Section 341 Meeting of Creditors "looking for her to make statements that

1 [Apple] could use against her in this proceeding.” Opp’n ¶¶ 48-49. But Apple’s counsel did not
 2 attend the public held Section 341 Meeting of Creditors to hear what Plaintiff/Debtor has to say
 3 about this litigation; there is an ample record of her views in the over 250 docket entries in this case
 4 alone. Instead, Apple’s counsel attended to hear what the *Trustee* had to say—specifically, whether
 5 he expressed any intent to abandon this action as Plaintiff/Debtor suggested he would. He did not.

6 Plaintiff/Debtor also asserts that Apple is “fishing for a court order prohibiting [her] from
 7 litigating in federal courts” for other claims she has said she intends to file against Apple. *See* Opp’n
 8 ¶ 64-66. Apple’s Motion does no such thing. It simply asks this Court to stay *this action* to allow
 9 the Trustee time to decide how to proceed in the action. Whether and how Plaintiff/Debtor’s
 10 bankruptcy affects her right to pursue a different action in a different court is an issue for the
 11 bankruptcy court and/or the court overseeing those proceedings to decide.

12 **G. Apple’s Production of Documents Is Irrelevant.**

13 Plaintiff/Debtor also suggests the Court should suspiciously view the timing of Apple’s
 14 Motion because it followed a document production that she asserts contains evidence that, in her
 15 mind, proves the claims she has made. *See* Opp’n ¶¶ 54-57. While Apple disagrees with
 16 Plaintiff/Debtor’s characterization of these documents, they are irrelevant to this Motion.

17 **H. Plaintiff/Debtor’s Request for Additional Relief Is Improper and Unfounded.**

18 Plaintiff/Debtor’s request to amend her complaint yet again—this time to add predicate acts
 19 to RICO claims and other causes of action that are no longer in the case and that this Court has
 20 already dismissed—is wholly improper. *See* Opp’n ¶¶ 72-97. Plaintiff/Debtor’s request for the
 21 Court to reconsider her Motion to Disqualify Orrick is also improper. *Id.* ¶ 97. Plaintiff/Debtor
 22 could only request this type of relief if she were the real party in interest and on a noticed motion
 23 that demonstrates there is an appropriate basis to grant the relief requested. Similarly meritless and
 24 misplaced are Plaintiff/Debtor’s unfounded attacks suggesting Apple and its agents engaged in
 25 litigation misconduct, including alleged false justifications provided to federal agencies regarding
 26 Plaintiff/Debtor’s termination, alleged concealment of evidence, or the suggestion that any
 27 documents produced in this case establish the alleged illegality of its actions. *See id.* ¶ 72. Further,
 28 any suggestion that Apple drove her into bankruptcy is another baseless accusation. *See id.*

I. Apple Did Not Interfere with Any Unidentified FCA Enforcement Action.

Plaintiff/Debtor alleges that Apple somehow interfered with a possible unidentified False Claims Act (“FCA”) enforcement action by referencing a publicly filed document in her bankruptcy proceeding (Opp’n ¶¶ 77-84)—in which she identified this action as the Chapter 7 Estate’s “primary potential source for any speculative recovery.” *See* Bankr. D. Mass. Case No. 25-bk-11496, Dkt. No. 17 ¶ 11. But Apple’s Motion had nothing to do with a hypothesized FCA enforcement action that is not before this Court. While it seems she believes a potential undisclosed FCA action was the basis for the Trustee’s supposed “abrupt and unexplained conversion of [her bankruptcy] case to an asset case” (*id.* ¶ 1), she ignores that the Trustee may have converted her bankruptcy into an asset case based on her own statements about this action—which was the reason Apple cited these filings in its Motion. A reasonable interpretation of the Trustee’s bankruptcy filings on August 13, 2025 and August 15, 2025 (*see* Bankr. D. Mass. Case No. 25-bk-11496, Dkt. Nos. 13-15) is that he is taking steps necessary to evaluate all of Plaintiff/Debtor’s prepetition claims, including this one, to decide how to proceed.⁶

V. CONCLUSION

For the reasons set forth in Apple’s Motion and this Reply, Apple respectfully requests that the Court grant its Motion and stay this action to allow the Trustee time to decide how to proceed. To the extent Plaintiff/Debtor challenges the Trustee’s statutory authority to prosecute this action, the stay should remain in effect until such time as the bankruptcy court has made a final determination of that issue.

Dated: September 2, 2025

ORRICK, HERRINGTON & SUTCLIFFE LLP

By: /s/ Jessica R. Perry
JESSICA R. PERRY
Attorney for Defendant
APPLE INC.

⁶ Indeed, Plaintiff/Debtor's opposition reiterates her view that this action is "the estate's primary asset." Opp'n ¶¶ 46, 99.

CERTIFICATE OF SERVICE

I am more than eighteen years old and not a party to this action. My business address is Orrick, Herrington & Sutcliffe LLP, 1000 Marsh Road, Menlo Park, California 94025. On September 2, 2025, I served the following document(s):

**DEFENDANT APPLE INC.'S REPLY IN SUPPORT OF ITS MOTION TO STAY
IN LIGHT OF BANKRUPTCY PROCEEDINGS**

By Electronic Service: On all of the interested parties in this action by transmitting true and correct copies of the documents identified above in portable document format from the email address tmcbride@orrick.com to the email addresses below:

Ashley Gjovik (in pro per)
ashleymgjovik@protonmail.com
legal@ashleygjovik.com

Mark G. DeGiacomo
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Haris Beach Murtha Cullina PLLC
33 Arch Street, 12th Floor
Boston, MA 02110

Plaintiff/Debtor

Bankruptcy Trustee

Via ECF

Via Email

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 2, 2025.

/s/ Tina McBride

Tina McBride